HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION No.26951 of 1996

Date: 02-04-2007.

Between :

Mohammad Jalaluddin.

.....Petitioner

And

Saptagiri Degree College, Vijayawada,
rep. by its General Secretary & Correspondent & others.

.....Respondents.

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ORDER :

This writ petition has been instituted seeking the following relief—

> *"To declare and order that the petitioner deemed to be working in a regular post in the Degree College since August, 1993 and the petitioner is entitled to continue to work in a regular post in a regular vacancy in aided post of the Respondent Degree College by paying the salary payable to the said post by the Respondent College and Smt.Sridevi is not entitled to be posted in a Degree College by issuance of a writ of mandamus or any other appropriate writ or order or direction or directions as the Hon'ble Court may deems fit and proper in the circumstances of the case."*

The writ petitioner alleges that he had been engaged by the

1st respondent-Degree College on a part-time basis to teach Hindi subject to the degree students. He has chosen to call in question the action of filling-up the post of

Lecturer in Degree College in Hindi subject with the 2nd respondent. The State Government had taken a policy decision to allow the 1st, 2nd and 3rd vacancies out of every consecutive four vacancies arising in Degree Colleges to be filled-in by way of promotion of Junior Lecturers working in Junior Colleges under the same management and this decision was announced through G.O.Ms.No.127, Education Department, dated 7th June 1993. Thus, the first three vacancies arising in any Degree College, are liable to be filled-in by way of recruitment by transfer/promotion of Junior Lecturers working in Junior Colleges, provided such Junior Colleges are run and managed by the same Educational Society. The

4th vacancy in the cycle of four, has been set apart for direct recruitment from the open market. The writ petitioner, therefore, had to stake a claim for direct recruitment along with any other qualified candidate in the open market, whereas the 2nd respondent in the writ petition who was working as a Junior Lecturer in Hindi Department of the Junior College which is also run and managed by the same Educational Society, had a right to seek promotion as Lecturer against the vacancies in the Degree College. Therefore, the channels of recruitment that are open to the 2nd respondent and that of the writ petitioner are entirely different. While the 2nd respondent

can stake a claim for promotion against a vacancy available in the Degree College, the writ petitioner cannot compete with the 2nd respondent for such promotion, for, he is not part of the establishment of the Junior College at all. In these set of circumstances, the relief claimed by the petitioner trying to put in issue the approval accorded by the Department and the action of promoting the 2nd respondent by the

1st respondent-management, are certainly outside the scope of challenge by the writ petitioner. He cannot entertain any grievance with regard thereto. All promotions made by the managements of private educational institutions have to be necessarily approved by the competent authority in the Department and only upon approval, the salary and other remunerations of the staff will become payable to such individuals. Therefore, the grievance nurtured by the writ petitioner trying to compare his case with that of the 2nd respondent, is ill-founded. Even if there was any discrepancy that is noticed in the matter of approval of the selection and the order of promotion of the 2nd respondent, the same is of no consequence insofar the petitioner is concerned. Therefore, the main grievance entertained by the writ petitioner does not bear further scrutiny.

However, if there is any teaching work load available with the 1st respondent-College, it is certainly open to

them to consider engaging the writ petitioner either on temporary or part-time basis or on regular or full-time basis as a Lecturer, provided in the latter case, his appointment also gets approved by the competent authority. For the period of such services rendered by the writ petitioner, he would also be entitled to be paid his remuneration therefor. If the

management of the 1st respondent-Degree College is guilty of not having paid the salary and allowances to the writ petitioner for the period he has been engaged as a Lecturer in the said college, it can certainly secure implementation insofar the payment of salary and allowances are concerned. The management of the 1st respondent-College can also entertain the writ petitioner as a part-time Lecturer, provided the teaching work load justifies his engagement as such and the Department of Collegiate Education has not ordered for not engaging the services of teachers on part-time basis. If the writ petitioner has not been paid for by the management of the 1st respondent-College, his salary and allowances for the period for which he has rendered his services, it is open to him to take up the matter with the Regional Joint Director of Collegiate Education [R.J.D. (CE)] at Guntur within the next one month by way of a representation and I have no doubt in my mind that the same will be looked into and the grievances of the petitioner are settled by the Department appropriately.

With this, the writ petition stands disposed of, but however, without costs. Liberty is granted to the writ petitioner to prefer a detailed representation to the R.J.D. (CE) at Guntur within one month from today and the R.J.D. (CE) may look into it and redress the grievances of the writ petitioner within three months thereafter.

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NOOTY RAMAMOHANA RAO, J

2nd April 2007.

ajr